

Remarks

This Amendment is in response to the Office Action dated **May 10, 2011**. The Examiner rejected claims 1, 91, 92, 94, 96-101, 108-111, 113, 115, 116, 119, 120, 124-128, and 130-135 under 35 USC § 103(a) over Scott (US 5,383,928) in view of Myers (US 5,700,285), Richter (US 5,807,404), Wallsten (US 5,061,275), and “Applicant’s admission at page 4 lines 1-5 or paragraph 0015 of the published application”; and rejected claims 1, 91-98, 100, 101, 105-116, and 119-134 under 35 USC § 103(a) over Berg (US 5,464,650) in view of Scott, Nolting (US 6,488,701), Jang (US Pub. No. 2004/0106985), Richter, Wallsten, “Applicant’s admission at page 4 lines 1-5 or paragraph 0015 of the published application,” and Kunz (US Pub. No. 2002/0086896. Final Office Action at pp. 2, 5.

Independent claims 1, 108, 109, 124, and 134 are herein amended. Support for these amendments can be founding the Specification at least on page 7, ll. 5-7 and fig. 1 of the Application as-filed in addition to previous claim 126. Claim 126 is consequently cancelled without prejudice or disclaimer.

Dependent claim 92 is amended to add the article “a”.

In light of the foregoing amendments and following comments, Applicant requests reconsideration.

Claim Rejections – Section 103(a)

Claims 1, 91, 92, 94, 96-101, 108-111, 113, 115, 116, 119, 120, 124-128, and 130-135

The Examiner rejected claims 1, 91, 92, 94, 96-101, 108-111, 113, 115, 116, 119, 120, 124-128, and 130-135 under 35 USC § 103(a) over Scott in view of Myers, Richter, Wallsten, and “Applicant’s admission at page 4 lines 1-5 or paragraph 0015 of the published application.”

In rejecting these claims, the Examiner asserts:

Scott is silent as to the stent comprising self expanding nickel titanium or stainless steel (claims 101,120,124,134). However, Applicant admits at page 4 lines 1-5 (or para [0015] of the published application) that stents of the self expanding and balloon expandable type are well known in the art. Examiner further takes Official Notice that nickel titanium alloys and stainless steel materials were well known in the stent art at the time of the invention. Thus it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the stent materials of Scott to use self expanding nickel titanium or stainless steel in order to utilize known materials and expansion techniques to secure the stent in a blood vessel.

In response, Applicant does not acquiesce to the Examiner's legal conclusion that "it would have been obvious to . . . modify the stent materials of Scott . . ." in accordance with the Examiner's assertion.

Additionally, independent claims 1, 108, 109, 124, and 134 are herein amended. The amendment to claim 1 is illustrative. Claim 1 recites, in-part:

a main body portion having a first end portion, a second end portion and a middle portion, wherein each of the first end portion, the second end portion and the middle portion have a metal outer surface, a metal inner surface and at least one end surface extending between the outer surface and the inner surface, . . . and a first biocompatible coating adhered directly on at least the metal outer surface of the first end portion of the main body portion and the at least one end surface

Whether considered independently or in combination, none of Scott, Myers, Richter, or Wallsten, discloses, teaches, suggests, or otherwise renders obvious an "expandable intraluminal stent" with a biocompatible coating on the end surface, as claimed. Consequently, Applicant requests reconsideration.

Additionally, the Examiner asserts that "Scott discloses . . . a sleeve coating of a polymer/drug mixture The coating may include an RGD peptide containing compound, a plurality of drugs, and a plurality of polymers which is interpreted by the examiner to meet to the limitations of a plurality of different layers." Applicant rejects and *traverses* the Examiner's assertion that the phrase a "plurality of layers" can be properly interpreted as "plurality of polymers". In short, the term "layer" is not synonymous with the term "polymer". As such, Applicants request withdrawal of the rejection.

Claims 1, 91-98, 100, 101, 105-116, and 119-134

The Office Action rejected claims 1, 91-98, 100, 101, 105-116, and 119-134 under 35 USC § 103(a) over Berg in view of Scott, Nolting, Jang, Richter, Wallsten, “Applicant’s admission at page 4 lines 1-5 or paragraph 0015 of the published application,” and Kunz.

In rejecting these claims, the Examiner again took Official Notice, asserting that “it would have been obvious to . . . modify the stent materials of Berg to use nickel titanium material” Again, Applicant does not acquiesce to the Examiner’s legal conclusion. Additionally, Applicant notes that the rejection relies on no fewer than seven (7) references, in combination with taking Official Notice, and citing to an eighth reference – Palmaz (US 4,800,882). Further, the rejection borrows individual elements from an array of art without providing articulated reasoning about why the skilled artisan would be led to combine these elements in accordance as suggested by the Examiner. For example, Wallsten discloses a braided, self-expanding prostheses, whereas the device of Richter does not appear to be a braided structure at all. Moreover, the Examiner asserts that “[e]ach of Richter and Wallsten teach stent patterns comprising larger and more flexible end cells in order to provide an even expansion diameter to reduce likelihood of thrombosis to or puncturing the vessel wall.” Office Action at 3. The Examiner provides no citation for this assertion. In short, the Office Action has failed to provide a *prima facie* case of obviousness as set forth in MPEP § 2142:

[t]he Supreme Court in *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398, 418, 82 USPQ2d 1385, 1396 (2007) noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. The Federal Circuit has stated that “rejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006).

In light of the foregoing, Applicant requests reconsideration of claims 1, 91-98, 100, 101, 105-116, and 119-134.

Conclusion

Based on at least the foregoing remarks, Applicant requests withdrawal of the rejections and allowance of claims 1, 91-98, 100, 101, 105-116, 119-125, 127-135. Favorable consideration and prompt allowance of these claims is earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in better condition for allowance the Examiner is invited to contact Applicant's undersigned representative at the telephone number listed below.

Respectfully submitted,

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